

PATENT
APPLICATION 09/822,300
ATTORNEY DOCKET 2000P07515US01 (1009-087)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 15 2007

Applicant(s) : Muenzel, Georg
Application # : 09/822,300
Confirmation # : 8037
Filed : 23 March 2001
Application Title : Industrial Automation System Graphical Programming
Language Storage and Transmission
Art Unit # : 2193
Latest Examiner : Vu, Tuan A.

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO WITHDRAW OFFICE ACTION FINALITY

Applicant respectfully petitions the Commissioner to withdraw the finality of the Office Action dated 14 August 2007 due to that Office Action's failure to address the substance of Applicant's arguments traversing rejections of each of claims 1-52.

MPEP 707.07 requires that an Office Action must be complete as to all matters, must provide a clear explanation of all actions taken, and must answer in detail the substance of each of the submitted arguments.

In response to an Office Action dated 14 February 2007, Applicant filed a proper Reply on 23 May 2007 ("the Reply"), which is incorporated herein by reference. In traversing a rejection of each of claims 1-52, Applicant presented numerous arguments that stand unopposed and unanswered in the present Office Action. For example, at pages 25-26 the Reply argued:

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The present Office Action fails to even identify "the particular problem" the claimed subject matter is involved and notably fails to provide any evidence that Dole is "reasonably pertinent to the problem based on the judgment of a person having ordinary skill in the art."

The present Application states that the field of the invention is "graphical programming languages for programmable logic controllers. In particular, the invention concerns a method and system for standardized storage of graphical programming languages. See Page 1. By contrast, Dole allegedly recites, at the Abstract:

[a]n environment for designing integrated circuits. Computers include browsers for displaying pages of forms, with the computers in communication with a methodology server and a compute server. The methodology server contains design methodologies accessed by the computers, with the design methodologies defining steps of designing and testing of integrated circuits. The computers or methodology server are also in communication with a compute server. The compute server executes electronic design automation tools as requested.

Thus, Dole relates to designing and testing "integrated circuits".

The present Office Action presents no evidence that Dole is "reasonably pertinent to the problem based on the judgment of a person having ordinary skill in the art." Applicant respectfully submits that absent such evidence, Dole cannot be used in a *prima facie* rejection of any of claims 1-52.

The present Office Action fails to respond whatsoever to this previously presented and persuasive argument. In addition, the present Office Action fails to answer in detail the substance of each of Applicant's submitted arguments comprised between pages 26-42 of the Reply. Instead, the present Office Action merely makes repeated vague accusations that somehow Applicant's arguments in the Reply did not comply with the requirements of 37 CFR 1.111(b). Applicant respectfully submits that the arguments of the Reply did comply with 37 CFR 1.111(b). In particular, 37 CFR 1.111(b) states:

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[i]n order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to the Office action. The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner's action and must reply to every ground of objection and rejection in the prior Office action. The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. If the reply is with respect to an application, a request may be made that objections or requirements as to form not necessary to further consideration of the claims be held in abeyance until allowable subject matter is indicated. The applicant's or patent owner's reply must appear throughout to be a bona fide attempt to advance the application or the reexamination proceeding to final action. A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section.

Applicant respectfully submits that the Reply was "reduced to a writing" and pointed out the "errors in the examiner's action". Further, the Reply replied "to every ground of objection and rejection in the prior Office action" as required. The Reply pointed out, for each of claims 1-52, "specific distinctions" and particularly noted claimed subject matter for which evidence was lacking regarding any applied portions of any available relied-upon references teaching that claimed subject matter. In particular, the Reply demonstrated that no *prima facie* rejection was presented regarding any of claims 1-52. Accordingly, Applicant respectfully submits that, that contrary to the unfounded assertions of the present Office Action, the Reply complied fully with 37 CFR 1.111(b).

Applicant further notes that merely attempting to denigrate Applicant's arguments in the Reply does not "answer in detail the substance of each of Applicant's submitted arguments" as required by MPEP 707.07(f).

For at least these reasons, Applicant respectfully requests the withdrawal of the finality of the Office Action dated 14 August 2007.

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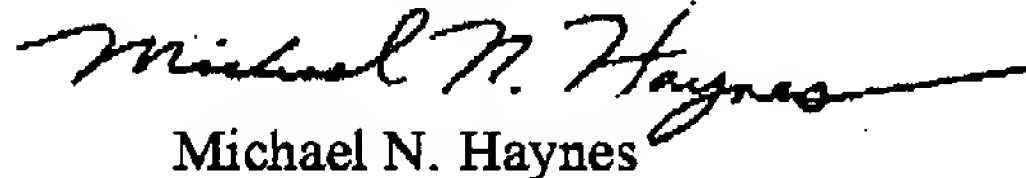
Submitted herewith please find the Petition fee under 37 C.F.R. 1.17 (h), which Applicant respectfully requests be refunded.

CONCLUSION

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. 1.16 or 1.17 to Deposit Account No. 50-2504. The Examiner is invited to contact the undersigned at 434-972-9988 to discuss any matter regarding this application.

Respectfully submitted,

Michael Haynes PLC



Michael N. Haynes

Registration No. 40,014

Date: 15 October 2007

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PTO/SB/17 (12-04)

Approved for use through 07/31/2008. OMB 0851-0032
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

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Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).**FEE TRANSMITTAL**
For FY 2005☐ Applicant claims small entity status. See 37 CFR 1.27TOTAL AMOUNT OF PAYMENT (\$) **130.00****Complete if Known**

Application Number	09/822,300
Filing Date	23 March 2001
First Named Inventor	Muenzel, Georg
Examiner Name	Vu, Tuan A.
Art Unit	2193
Attorney Docket No.	2000P07515US01 (1009-087)

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METHOD OF PAYMENT (check all that apply)☐ Check ☒ Credit Card ☐ Money Order ☐ None ☐ Other (please identify):☒ Deposit Account Deposit Account Number: 50-2504 Deposit Account Name: Michael N. Haynes

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below☐ Charge fee(s) indicated below, except for the filing fee☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.18 and 1.17.☒ Credit any overpayments

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FEE CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	0
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES**Fee Description**

	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

Total Claims 52 - 20 or HP = 0 x 50 = 0

HP = highest number of total claims paid for, if greater than 20

Indep. Claims 7 - 3 or HP = 0 x 200 = 0

HP = highest number of independent claims paid for, if greater than 3

Multiple Dependent Claims

Fee (\$) Fee Paid (\$)

0

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets - 100 = **Extra Sheets** / 50 = **Number of each additional 50 or fraction thereof** x **Fee (\$)** = **Fee Paid (\$)**

0 (round up to a whole number)

250

0

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other: Petition fee under 37 C.F.R. 1.17 (h)

Fees Paid (\$)

0

130

SUBMITTED BYSignature *Michael N. Haynes*Registration No. 40,014
(Attorney/Agent)

Telephone 434-972-9988

Name (Print/Type) Michael N. Haynes

Date 15 Oct 2007

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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